

Appln. No. 10/780,040
Amdt. dated Jan. 18, 2005
Reply to Office Action of Oct. 15, 2004

Remarks/Arguments:

As of the Office Action mailed October 15, 2004 claims 1-6 and 11 are pending in the application and stand rejected. Accordingly, reexamination and reconsideration of the application in view of the amendments and remarks herein is respectfully requested. Applicant believes that the present amendments and remarks place the application in a condition for allowance. Allowance of the claims is, therefore, respectfully requested.

Amendments to the Claims

Claims 1, 2 and 11 have been cancelled. Claims 12 and 13 are newly presented. Support for claim 12 may be found, for example, in original claims 1 and 2 as well as on page 2 lines 4-7 and page 7, line 20 – page 8, lines 24 as well as in Figure 2. Support for claim 13 may be found, for example, in Figure 2 and page 7, line 20 – page 8, line 34. Claims 4 and 6 have been amended to correct dependency. Applicant believes that no new matter has been added by these amendments.

Rejections Under 35 U.S.C. §102 and §103

Claims 1, 2 and 11 have been rejected under 35 U.S.C. §102(b) as being anticipated by Mayer et al, U.S. Patent No. 5,996,549 (herein referred to as "Mayer"). Furthermore, claims 4 and 6 are rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative under 35 U.S.C. §103(a) as obvious over Mayer. Claim 4 is rejected under 35 U.S.C. §103(a) as being unpatentable over Mayer in combination with Hatton, U.S. Patent No. 6,135,418 (herein referred to as "Hatton"). Claim 6 is also

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rejected under 35 U.S.C. §103(a) as being unpatentable over Mayer in view of Pearson et al., U.S. Patent No. 5,374,032 (herein referred to as "Pearson").

Applicant believes that newly presented claim 12 is not taught or suggested by Mayer. Mayer fails to disclose "an insert to be positioned between the induction system with its individual induction ducts and the cylinder head of an internal combustion engine comprising a plurality of openings connected to the induction ducts and fitted with flap devices for influencing the flow cross-section in the openings..." Therefore, Applicant believes that the claimed invention is not taught or suggested by Mayer.

Likewise, applicant believes that newly presented claim 13 is not taught or suggested by Mayer. Mayer fails to disclose "a means operable to fix first and second control elements in torsionally stiff relationship to the first and second ends of each of the shaft portions." As the Examiner points out Mayer discloses "the control flaps may be of a plastic material and non-rotatably connected to the pivot axle." Col. 2, lines 56-58. However, from this disclosure Mayer simply discloses that the control flaps are non-rotatably connected. Mayer fails to disclose or suggest any mechanism or means to connect the control elements in a torsionally stiff relationship to the first and second ends of the shaft portion. Therefore, applicant believes that the claimed invention is not taught or suggested by Mayer.

As claims 4 and 6 depend from claim 12, they incorporate the undisclosed and unsuggested subject matter of claim 12 and are therefore not taught or suggested by Mayer.

In light of the above, Applicant respectfully submits that claims 12 and 13 their depending claims are not taught or suggested by the cited references. In consideration of

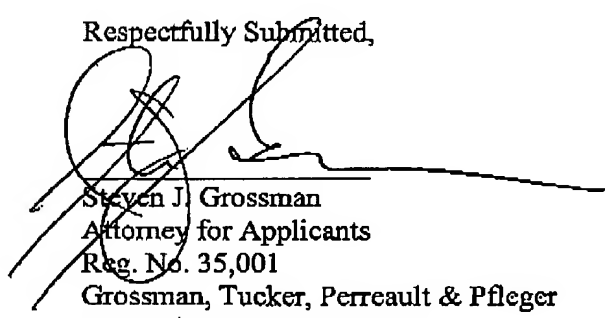
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the foregoing Applicant respectfully requests that the rejection of claims 4, 6 and 12-13 are withdrawn upon reconsideration.

Having overcome all of the outstanding rejections, it is respectfully submitted that the application is now in condition for allowance. Early and favorable action is respectfully solicited.

In the event that there are any fee deficiencies, or additional fees are payable, please charge, or credit any overpayment to, our Deposit Account No. 50-2121.

Respectfully Submitted,



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